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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Complete Detariffing for)
Competitive Access Providers) CC Docket No. 97-146
and Competitive Local)
Exchange Carriers)

COMMENTS OF GENERAL COMMUNICATION, INC.

General Communication, Inc. (GCI) submits these comments in response to the Commission's Notice of Proposed Rulemaking (Notice) (FCC 96-219), released June 19, 1997. The Commission seeks comment on the proposal to adopt mandatory detariffing for non-incumbent local exchange carriers offering interstate exchange access service. As set forth below, the Commission should adopt permissive detariffing for non-ILEC providers of interstate access services.

In its Notice, the Commission tentatively concluded that complete detariffing for non-ILECs would provide additional benefits to its permissive detariffing policy. The Commission notes that the benefits of mandatory detariffing will include elimination of the threat of price coordination through tariffing, reduce the administrative burdens of the Commission, preclude carriers from attempting to use the filed rate doctrine to nullify contractual arrangements and remove uncertainty about the application of the doctrine to tariffed arrangements filed on a permissive basis.

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Pursuant to the Telecommunications Act of 1996, to forbear from applying Section 203 of the Communications Act, the Commission must determine that:

- (1) the enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.¹

GCI does not agree that the Commission should mandate detariffing and forbear from applying tariff filing requirements for non-ILEC providers of interstate exchange access service. The Commission should continue its permissive detariffing policy for non-ILEC offerings of interstate exchange access service. The standards for forbearance have not been met. Continued permissive filing of tariffs is in the public interest and will ensure that rates are not unduly discriminatory and to protect consumers.

Beyond setting rates, one function of tariffs is to establish other terms of the relationship between carriers and customers. Without tariffs, carriers would be expected to have an individual contract with each customer. It would be a burden on both carriers and customers to establish such individual contracts. Further, such individual contracts with

¹47 U.S.C. 159 - Section 10.

the multitude of customers would increase the probability of discrimination among customers.

Elimination of tariff filings would also reduce the ability of those customers to obtain the most favorable rates and would, thereby, reduce competition. Individual customers generally do not investigate tariffs to determine the lowest rates. However, various organizations analyze tariffs and issue reports and articles regarding the rates and rate plans offered by various carriers. If tariffs are not filed, these organizations will not have access to the information necessary for such reports and articles.

The Commission stated in the Notice that it believes that mandatory detariffing will discourage price coordination. That statement illustrates the problem that consumers will have obtaining information about tariffs and demonstrates why tariffing should not be eliminated.

Knowledge of rates by competitors may facilitate collusion, but knowledge of rates by customers is necessary for those customers to make appropriate choices. If the Commission does not expect carriers to be able to ascertain competitors' rates, how will consumers ascertain those rates so they can make appropriate competitive choices.

Even without tariffs, carriers competing in the provision of interstate access are probably in a better position than customers to ascertain their competitors' rates. On a daily basis, the sales and marketing staff of carriers will be trying to learn about the rates of competitors. They will

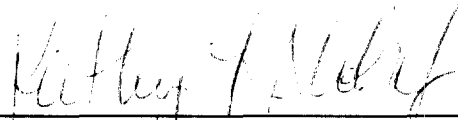
gain such information very shortly after new rates are offered; only consumers will be denied the information. For carriers, there will be little difference between learning about new tariffs a day or two after they are offered, versus learning about them through tariff filings on one days' notice. For consumers, the difference will be enormous and their ability to make competitive choice, without adequate information, will be constrained.

The Commission cannot rely on the filing of complaints to protect consumers and prevent discrimination. In the first instance, most consumers will not have sufficient evidence on which to base a complaint. Furthermore, complaints at the Commission take an inordinate amount of time to resolve and do not provide real relief to consumers.

For the foregoing reasons, the Commission should continue its policy of permissive detariffing for non-ILEC providers of interstate exchange access services.

Respectfully submitted,

GENERAL COMMUNICATION, INC.

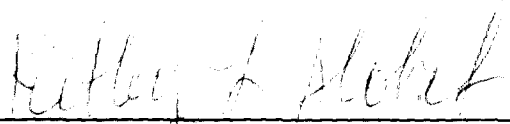


Kathy L. Shobert
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August 18, 1997

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed this 18th day of August, 1997.



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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, do hereby certify that on this 18th day of August, 1997 a copy of the foregoing was sent by first class mail, postage prepaid, to the parties listed below.



Kathy L. Shobert

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